



**Public Policy Research Center**  
 Центр Анализа Общественных Проблем

# PPRC NEWSLETTER

Dear Readers,

In this issue you can get familiar with the comments of Public Policy Research Center on the draft of Memorandum of Understanding with respect to Extractive Industry Transparency Initiative (version as of 18.08.05) that was prepared by Working group headed by Vladimir Shkolnik, Minister of Energy and Mineral Resources, in cooperation with Kazakhstan Petroleum Association. This recommendations are forwarded to Working group on implementation of Extractive Industries Transparency Initiative in the Republic of Kazakhstan and Kazakhstan Petroleum Association.

## **Proposals to the draft of Memorandum of Understanding with respect to Extractive Industry Transparency Initiative (version as of 18.08.05)**

Implementation of Extractive Industry Transparency Initiative in Kazakhstan is an important indicator of country development. Drafted by the Working Group in collaboration with Kazakhstan Petroleum Association proposed Memorandum of Understanding with respect to Extractive Industry Transparency Initiative (hereinafter – Memorandum) contains contradictory provisions, which prevents from full-value implementation of Extractive Industry Transparency Initiative in Kazakhstan.

We would like to draw attention to the number of issues to be raised during Memorandum discussion and decided before it signed.

1. It is an important step to include Parliament as a party of Memorandum that recognizes the role of Parliament in raw sector revenue watch. However, sampling list of deputies, and all the more, recognizing them as a Party when signing the Memorandum (for example, for implementation of p.9 they may delegate three of five: should they throw lots?) looks unjustified. The more proper way would be to recognize the Parliament a Party as the Superior Representative Body, represented at signing of the document. In its turn, Parliament at the first joint meeting of the chambers of new session could delegate deputies to discuss and sign the Memorandum, monitor implementation of Extractive Industry Transparency Initiative. If these arguments are recognized justified the text of the Memorandum should be corrected respectively.
2. Draft Memorandum leaves unclear the issue of what should be promulgated to raise public awareness. Neither item of the Memorandum provides if the reports prepared by the authorized body (Ministry of Finances RK) and extractive industry companies should be published. Moreover, p. 5, sp. (e) provides that «The Audit Company and the Working Group should permanently store individual reports, presented by the Extractive Industry, strictly confidential, without full or partial dissemination of data to any other parties of the Memorandum, to the third persons or public».
3. In practice, this means that neither general public, nor deputies of the Parliament, nor representatives of non-governmental organizations, which as per current version of the Memorandum are «other parties», will be aware of payments by the companies to the budget. This questions the actual implementation of the Extractive Industry Transparency Initiative, as its first criteria is «Regular publication of all oil, gas and mining payments by companies to governments («payments») and all material revenues received by governments from oil, gas and mining companies («revenues») to a wide audience in a publicly accessible, comprehensive and comprehensible manner».
4. P. 11 touches upon the same problem: «The Parties agree to treat all material received in relation to the Memorandum as strictly confidential until such time as all Parties agree upon its disclosure or publication.». As the analysis of previous article shows the Parties should be considered only 1) Working Group, 2) companies themselves, and 3) Audit Company, as they promulgate the information on reporting neither to deputies of the Parliament, nor to the NGOs representatives.
5. Further in the same paragraph: «The Working Group by a mutual agreement of the Parties, approves the list of materials that shall be published in press for a wide discussion of a projected». Neither paragraph of the

Memorandum explains, what «General Report» means. Analysis of all correspondent paragraphs of the Memorandum shows limitation of decision-making parties in this important issue: 1) Working Group, 2) companies themselves. In this case, deputies of the Parliament and NGOs representatives should be included into the Working Group, which would allow them acquainting with the companies' reporting and participating in the decision-making. Current version of reporting makes implementation of Extractive Industry Transparency Initiative a more formality as it retains existing «status quo»: companies report to the government, at the same time neither Parliament, nor civil society has no idea about actual payments of the companies and revenues of the government from the extractive sector.

6. In the light of the abovementioned the note in the p. 5 sp.(d) looks unjustified, saying that MEMR agreed to exclude this paragraph: «Audit company after gathering, verification and analyzing of the reports, presented by extractive sector companies, sends the copies to the Working Group».
7. Before Memorandum signed it is important to discuss in its text the list of report types, to be published for awareness of Kazakhstan citizens. Meanwhile only mention of publication of joint press-release on the results of audit was made clear (p. 7).
8. Types of reporting. In the paragraph 1 the types of reporting are mentioned, which were recommended at the International EITI conference in London on 17 June 2003. In our opinion, types of reporting in the «Source book for «Extractive Industry Transparency Initiative», prepared by EITI Secretariat in the Department for International Development of Great Britain (DFID) in March 2005 should be taken as a basis.
9. Three types of reporting should be taken into consideration when implementing Initiative in Kazakhstan: one for the Government and two for the companies; (1) contracts for utilization of mineral resources and (2) agreements for production sharing should go separately as types

of taxes and payments within these contracts are different.

10. It will be correct to emphasize in the companies' reporting the actual volumes of extraction not only in barrels as it was proposed, but in tons as well, as the quality of oil differs depending from oilfield: from light Tengiz oil, which quality is close to Brent, to heavier sorts. At present time the Government publishes the reports in tons, however the budget forecast includes prices for barrel of oil that prevents evaluation of forecast adequacy. It is known that depending on the quality of oil the number of barrels in one ton may wobble from 7.1 to 7.5.
11. When implementing the EITI the Government of Kazakhstan and extracting companies should not be guided by the experience of Azerbaijan (the Memorandum practically was fully imported, which explains all its shortcomings), but by the best international experience. For example, Statoil made an important input in implementation of the EITI by publishing in the 2004 report the details of direct and indirect tax payments in 26 countries of the world, where it works (one can see the report «Sustainable Development Report 2004» at [www.statoil.com](http://www.statoil.com)).
12. Audit report on Azerbaijan checking-up the government and companies' reports revealed discrepancies between them, however the measures taken in this case are still unclear (one can see the audit report at [www.eitransparency.org](http://www.eitransparency.org)). This is just a statement of fact. In our case, Memorandum should foresee the measures to be undertaken when discrepancies revealed in the reports of the government and companies.
13. Starting EITI implementation in Kazakhstan we should take into consideration that Memorandum signed by all parties still will not be able to cover all issues. In this regard, the paragraph: «Parties agree that Memorandum should be overviewed and modified on regular basis (not less than once a year) in order to allow for problem solution which may arise during the Initiative implementation».

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**PPRC Newsletter** is a weekly publication of the Public Policy Research Center.  
PPRC newsletter editor: Meruert Makhmutova  
English text translator: Natalia Achkassova  
**Registration Number №3268-Ж**  
**Circulation: 200 copies**

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